

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Document #

39

U.S.C.A. #

05-cv-8132 (L)

U.S.D.C. #

06-cv-0904 (MEM)

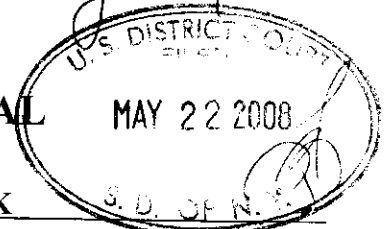
JUDGE:

LAK

DATE:

May 22, 2008

INDEX TO THE RECORD ON APPEAL



PREPARED BY (NAME):

THOMAS R. PISARCZYK

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DISTRICT COURT DOCKET ENTRIES

DOCUMENT DESCRIPTION

DOC. #

CLERK'S CERTIFICATE

SEE ATTACHED LIST OF NUMBERED DOCUMENTS

**** ONLY CIRCLED DOCUMENTS ARE INCLUDED ****

**** ALL OTHERS MISSING AT THIS TIME ****

☒ Original Record

☐ Supplemental Record

The record in the above entitled case was indexed to the U.S.C.A.
for the Second Circuit on the 22nd Day of May, 2008.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Song
-v-
Potter

U.S.C.A. # _____

05-CV-8132

U.S.D.C. # 06-CV-0904

06-CV-0904

JUDGE: LAK

LAX

DATE: may 22, 2008

May 22, 2008

Clerk's Certificate

I, J. Michael McMahon, Clerk of the Court of the United States District Court for the Southern District of New York, do hereby certify that the certified copy of the docket entries and the original filed papers numbered ____ Through ____, inclusive, constitutes the Original record on appeal in the above entitled proceedings except for the following missing documents:

Date Filed

Document Description

BALANCE OF FILE MISSING AT THIS TIME

In Testimony Whereof, I have caused the seal of said Court to be hereunto affixed, at the City of New York, this 22ND Day of May In this year of our Lord, Two Thousand and Eight, and the Independence of the United States this 232ND year.

J. Michael McMahon, Clerk

By

Deputy Clerk

APPEAL, CASREF, CLOSED, PRO-SE

U.S. District Court
United States District Court for the Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:05-cv-08132-LAK-THK
Internal Use Only

Song v. Potter
Assigned to: Judge Lewis A. Kaplan
Referred to: Magistrate Judge Theodore H. Katz
Cause: 42:2000e Job Discrimination (Employment)

Date Filed: 09/20/2005
Date Terminated: 03/05/2008
Jury Demand: None
Nature of Suit: 442 Civil Rights: Jobs
Jurisdiction: U.S. Government Defendant

Date Filed	#	Docket Text
09/20/2005	<u>1</u>	COMPLAINT against John E. Potter. Document filed by Ben Song.(jbe,) Modified on 4/26/2006 (ae,). (Entered: 09/26/2005)
09/20/2005	<u>2</u>	DECLARATION IN SUPPORT OF REQUEST TO PROCEED IN FORMA PAUPERIS. Document filed by Ben Song.(jbe,) (Entered: 09/26/2005)
09/20/2005		Magistrate Judge Theodore H. Katz is so designated. (jbe,) (Entered: 09/26/2005)
09/20/2005		SUMMONS ISSUED as to John E. Potter (jbe,) Modified on 4/26/2006 (ae,). (Entered: 09/26/2005)
10/28/2005	<u>3</u>	ORDER REFERRING CASE TO MAGISTRATE JUDGE. Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for General Pretrial (includes scheduling, discovery, non-dispositive pretrial motions, and settlement) and Dispositive Motion (i.e. motion requiring a Report and Recommendation. Referred to Magistrate Judge Theodore H. Katz. (Signed by Judge Lewis A. Kaplan on 9/30/2005) (lb,) (Entered: 10/28/2005)
02/08/2006	<u>4</u>	MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE EXECUTED Summons and Complaint served. John E. Potter served on 12/22/2005, answer due 1/11/2006. Service was accepted by Ms. A. Charles. Service was made by certified mail. Document filed by Ben Song. (cd,) Modified on 4/26/2006 (ae,). (Entered: 02/08/2006)
02/17/2006	<u>5</u>	ENDORSED LETTER: addressed to Judge Lewis A. Kaplan from Matthew L. Schwartz dated 2/10/2006 re: Gov't is requesting a 60 day extension to answer or otherwise respond to the complaint currently due by 2/21/2006. ENDORSEMENT: Granted. (Signed by Judge Lewis A. Kaplan on 2/15/2006) (lb,) (Entered: 02/17/2006)
04/25/2006	<u>6</u>	ANSWER to Complaint. Document filed by John E. Potter.(kco,) (Entered: 04/25/2006)
04/28/2006	<u>7</u>	MOTION to Consolidate Cases 1:05-cv-8132 and 1:06-cv-904. Document filed by Ben Song. (dle,) (Entered: 05/02/2006)
05/15/2006	<u>8</u>	ENDORSED LETTER addressed to Judge Theodore H. Katz from Ben Song dated 5/9/06 re: Pro Se plaintiff writes to request a interpreter. These matters will be discussed at the conference on 5/26/06, at 3:00 p.m. So Ordered. (Signed by Judge Theodore H. Katz on 5/12/06) (jco,) (Entered: 05/15/2006)
05/31/2006	<u>9</u>	ORDER granting 7 Motion to Consolidate Cases 1:05-cv-8132 (as Lead Case) with 1:06-cv-904 . (Signed by Magistrate Judge Theodore H. Katz on 5/26/2006) Copies Mailed By Chambers(lb,) (Entered: 06/01/2006)
06/05/2006	<u>10</u>	ORDER: The Court grants plaintiff's motion for appointment of counsel. The Pro Se Office for the SDNY is directed to request pro bono counsel for plaintiff in accordance with the Pro Bono Panel's procedures. Plaintiff should be aware that there is no guarantee that an attorney will choose to represent him. (Signed by Magistrate Judge Theodore H. Katz on 6/1/2006) Copies Mailed By Chambers.(lb,) (Entered: 06/05/2006)
06/05/2006	<u>11</u>	SCHEDULING ORDER: Discovery due by 11/30/2006. There shall be no further amendments of the pleadings or joinder of additional parties without good cause shown. If any party seeks to file a dispositive motion, the moving party should submit a brief letter to the Court discussing the basis for the proposed motion by 12/28/2006. All other rulings as set forth in this order. (Signed by Magistrate Judge Theodore H. Katz on 6/1/2006) Copies Mailed By Chambers.(lb,) (Entered: 06/05/2006)
09/26/2006	<u>12</u>	ORDER PLACING CASE ON SUSPENSE: this action shall be placed on the court's suspense calendar. Promptly on his return from China, Plaintiff is to so advise the court and dft's counsel. Pretrial discovery must be completed within forty five days of plaintiff's return from China. (Signed by Judge Theodore H. Katz on 9/21/06) (dle,) (Entered: 09/26/2006)
10/31/2006	<u>13</u>	ORDER Pretrial Discovery due by 12/18/2006. So Ordered. (Signed by Judge Theodore H. Katz on 10/30/2006) (jmi,) (Entered: 11/01/2006)
12/20/2006	<u>14</u>	ENDORSED LETTER addressed to Mag. Judge Theodore H. Katz from Matthew L. Schwartz dated 12/12/06 re: Gov't requests a conference to discuss this issue or, alternatively, and order compelling Mr. Song's appearance at a date to be determined. So Ordered. Plaintiff must appear for his deposition on a date agreed to by the parties, but no later than 1/18/07. Plaintiff may bring his own interpreter, or, if he fails to do so, the dfts has agreed to provide an interpreter. The Court will not provide an interpreter. Failure to comply with this Order will result in sanctions. (Signed by Judge Theodore H. Katz on 12/19/06) Filed In Associated Cases: 2:05-cv-08132-LAK-THK,2:06-cv-00904-LAK-THK(pl,) (Entered: 12/21/2006)
02/09/2007	<u>15</u>	ENDORSED LETTER addressed to Judge Theodore H. Katz from Matthew L. Schwartz dated 1/26/07 re: Counsel writes to request an order permitting me to continue Mr. Song's deposition. In addition, the defendant asks that the discovery deadline be extended until such time as Mr. Song's deposition can be completed. Plaintiff shall appear for the continuation of his deposition, which shall be continued until completed. Given the circumstances described above, the limitations of Rule 30(d)(2), F.R.C.P. will be suspended. The deposition shall be completed by 2/16/07. So Ordered. (Signed by Judge Theodore H. Katz on 1/29/07) (jco) (Entered: 02/16/2007)
02/09/2007	<u>16</u>	ENDORSED LETTER addressed to Mag. Judge Theodore H. Katz from Ben Song dated 1/17/07 re: plaintiff requests and extension of the discovery deadline; So Ordered. Request is denied. The discovery deadline was 12/18/06. The Court extended the deadline to 1/18/07 only for the completion of plaintiff's depositions, as plaintiff was objecting to appearing at his disposition, which was noticed for as date prior to 12/18th. The Court has been extremely patient with plaintiff, extending the deadline several times. No jurisdiction has been offered for plaintiff's inaction over many months. Moreover, it is not dft's obligation to provide a stenographer and interpreter for depositions Plaintiff seeks to take. (Signed by Judge Theodore H. Katz on 1/29/07) (pl) (Entered: 02/20/2007)

02/22/2007	17	ENDORSED LETTER addressed to Magistrate Judge Theodore H. Katz from Matthew L. Schwartz dated 2/16/2007 re: to I therefore respectfully request that the Court allow the parties until February 28, 2007, to complete plaintiff's deposition. ENDORSEMENT: The request is granted. (Signed by Judge Theodore H. Katz on 2/20/2007) (jmi) (Entered: 02/26/2007)
04/10/2007	18	ORDER Motions due by 5/18/2007, Responses due by 6/18/2007, Replies due by 6/28/2007. SO ORDERED. (Signed by Judge Theodore H. Katz on 4/10/2007) (jmi) (Entered: 04/11/2007)
05/22/2007	19	ENDORSED LETTER addressed to Mag. Judge Katz from Matthew L. Schwartz dated 5/18/07 re: counsel to defendant Potter, requests an approximately 40-day extension of the briefing schedule on the Government's motion for summary judgment, which was due today. Counsel proposes the following briefing schedule, which preserves the time-frame of the Court's April 10th Order: Defendant's moving brief due June 29, 2007; Plaintiff's opposition brief due July 30, 2007; Defendant's reply brief due August 13, 2007. The request is granted. (Signed by Judge Theodore H. Katz on 5/21/07) Copies Mailed. (dj) (Entered: 05/24/2007)
05/22/2007		Set Deadlines/Hearings: Motions(brief) due by 6/29/2007, Replies due by 8/13/2007, Responses due by 7/30/2007 (dj) (Entered: 05/24/2007)
07/03/2007	20	ENDORSED LETTER addressed to Magistrate Judge Theodore H. Katz from Matthew L. Schwartz dated 6/28/07 re: a request for an order holding that plaintiff has waived any objection to the transcript of his deposition, pursuant to F.R.C.P. 30(e). ENDORSEMENT: If Mr. Song has not submitted his signed deposition with corrections by 7/16/2007, he will be deemed to have waived any objections to the transcript. The motion schedule is amended as follows: (1) any motion for summary judgment shall be filed by 7/23/2007 (2) any response to the motion shall be filed by 8/20/2007. (3) Any reply shall be filed by 8/30/2007. SO ORDERED. (Signed by Judge Theodore H. Katz on 7/2/07) Filed In Associated Cases: 2:05-cv-08132-LAK-THK, 2:06-cv-00904-LAK-THK Copies Mailed By Chambers. (kco) (Entered: 07/05/2007)
07/10/2007	22	ENDORSED LETTER addressed to Magistrate Judge Theodore H. Katz from Ben Song dated 7/4/07 re: a request that the Court find the filings of defendant to be late and unlawful. ENDORSEMENT: The amended schedule set by the Court remains in place. SO ORDERED. (Signed by Judge Theodore H. Katz on 7/9/07) Filed In Associated Cases: 2:05-cv-08132-LAK-THK, 2:06-cv-00904-LAK-THK Copies Mailed By Chambers. (Original document filed in 05cv8132 as doc #22) (kco) (Entered: 07/17/2007)
07/11/2007	21	MOTION to Compel the defendant to present the necessary document to me or to this court. Document filed by Ben Song. (jmi) (Entered: 07/13/2007)
07/23/2007	23	MOTION for an order pursuant to Rule 56 of the F.R.C.P. to Dismiss cases 05cv8132 and 06cv904 in their entirety. w/ attached Statement of Undisputed Material Facts pursuant to Local civil Rule 56.1 Document filed by John E. Potter, John E. Potter. Filed In Associated Cases: 2:05-cv-08132-LAK-THK, 2:06-cv-00904-LAK-THK(pl) (Entered: 07/26/2007)
07/23/2007	24	MEMORANDUM OF LAW in Support re: (8 in 2:06-cv-00904-LAK-THK, 23 in 2:05-cv-08132-LAK-THK) MOTION to Dismiss. Document filed by John E. Potter, John E. Potter. Filed In Associated Cases: 2:05-cv-08132-LAK-THK, 2:06-cv-00904-LAK-THK(pl) (Entered: 07/26/2007)
07/23/2007	25	DECLARATION of Matthew L. Schwartz, Francis O'Neill, and Sondra Harris in Support re: (8 in 2:06-cv-00904-LAK-THK, 23 in 2:05-cv-08132-LAK-THK) MOTION to Dismiss. Document filed by John E. Potter, John E. Potter. Filed In Associated Cases: 2:05-cv-08132-LAK-THK, 2:06-cv-00904-LAK-THK(pl) (Entered: 07/26/2007)
07/23/2007	26	NOTICE OF NOTICE TO PRO SE LITIGANT WHO OPPOSES MOTION FOR SUMMARY JUDGMENT re: (8 in 2:06-cv-00904-LAK-THK) MOTION to Dismiss. Document filed by John E. Potter, John E. Potter. Filed In Associated Cases: 2:05-cv-08132-LAK-THK, 2:06-cv-00904-LAK-THK(pl) (Entered: 07/26/2007)
08/20/2007	27	AFFIRMATION of Ben Song in Opposition re: 23 MOTION to Dismiss. Document filed by Ben Song. (dj) (Entered: 08/23/2007)
08/22/2007	28	ORDER: It is hereby ordered that 1. Plaintiff's response to Defendant's Motion for Summary Judgment shall be filed by September 5, 2007. Any reply by Defendant shall be filed by September 17, 2007. So Ordered. (Signed by Judge Theodore H. Katz on 8/21/07) Filed In Associated Cases: 2:05-cv-08132-LAK-THK, 2:06-cv-00904-LAK-THK Copies Mailed By Chambers. (js) (Entered: 08/27/2007)
09/17/2007	29	REPLY MEMORANDUM OF LAW in Further Support of 23 MOTION for Summary Judgment pursuant to FRCP 56. Document filed by John E. Potter. Received in night deposit box on 9/17/07 at 9:25 p.m. (db) (Entered: 09/19/2007)
09/27/2007	30	ENDORSED LETTER addressed to Magistrate Judge Theodore H. Katz from Matthew L. Schwartz dated 9/25/07 re: The Government requests that Song's "Supplemental Material" and any such future submissions be disregarded, and that the motion be deemed fully-submitted. ENDORSEMENT: In view of Defendant's substantive response to the Supplemental Material, the Court will consider the submission in addressing the pending motion. Plaintiff is not to make any further submissions. The motion is fully submitted and no additional materials will be considered. (Signed by Judge Theodore H. Katz on 9/27/07) Copies Mailed By Chambers. Filed In Associated Cases: 2:05-cv-08132-LAK-THK, 2:06-cv-00904-LAK-THK(tro) (Entered: 09/28/2007)
10/23/2007	31	ENDORSED LETTER addressed to Magistrate Judge Theodore H. Katz from Matthew Schwartz dated 10/22/07 re: Request that Mr. Song's latest submissions be disregarded. ENDORSEMENT: Plaintiff's 10/2/07 submission will not be considered. Plaintiff has already submitted two responses to defendant's motion, and he has been advised not to make any further submissions.. (Signed by Judge Theodore H. Katz on 10/23/07) Filed In Associated Cases: 2:05-cv-08132-LAK-THK, 2:06-cv-00904-LAK-THK copies sent by chambers. (cd) (Entered: 10/24/2007)
11/06/2007	32	ORDER: The Court is in receipt of a handwritten letter from the pro se plaintiff that appears to have been mailed on 11/2/2007. As nearly as I can understand it, Mr. Song objects to Magistrate Judge Kat's 10/23/2007 memo endorsement, which declined to consider plaintiff's 10/2/2007 submission. Accordingly, the order appealed from is affirmed. Copies mailed by chambers. (Signed by Judge Lewis A. Kaplan on 11/5/2007) (jar) (Entered: 11/07/2007)
11/07/2007	33	LETTER addressed to Judge Lewis A. Kaplan from Mr. Song dated 10/31/07 Document filed by Ben Song. (dj) (Entered: 11/09/2007)
01/17/2008	34	MEMO ENDORSEMENT ON NOTICE OF MOTION: Motion DENIED. It was filed untimely, after discovery had been completed. Moreover it raises issues previously addressed by the Court, is overboard, and seeks information which has little or no relevance to plaintiff's claims (Signed by Magistrate Judge Theodore H. Katz on 1/17/08) Filed In Associated Cases: 2:05-cv-08132-LAK-THK, 2:06-cv-00904-LAK-THK(js) (Entered: 01/17/2008)
02/13/2008	35	REPORT AND RECOMMENDATIONS re: (8 in 2:06-cv-00904-LAK-THK) MOTION to Dismiss. For the reasons stated above, this Court recommends that the Title VII claims related to the June 2000 LOW and the September 2000 NOR and the September 2002 LOW, should be dismissed for failure to exhaust administrative remedies. Plaintiff's remaining claims should be dismissed because there are no genuine issues of material fact that would allow a reasonable fact finder to conclude that Plaintiff was subject to unlawful discrimination or retaliation. Defendant's Motion for Summary should therefore be granted, and Plaintiff's Amended complaint should be dismissed with prejudice. Objections to R&R due by 2/26/2008 (Signed by Magistrate Judge Theodore H. Katz on 2/13/08) Filed In Associated Cases: 2:05-cv-08132-LAK-THK, 2:06-cv-00904-LAK-THK Copies mailed by Chambers. (dj) (Entered: 02/13/2008)

		02/13/2008)
03/04/2008	<u>36</u>	ORDER granting (8) Motion to Dismiss in case 2:06-cv-00904-LAK-THK. Accordingly, the motion for summary judgment dismissing the complaints in these actions is granted. The Clerk shall close the cases. So Ordered. (Signed by Judge Lewis A. Kaplan on 3/3/08) Filed In Associated Cases: 2:05-cv-08132-LAK-THK, 2:06-cv-00904-LAK-THK(jco) (Entered: 03/04/2008)
03/04/2008		Transmission to Judgments and Orders Clerk. Transmitted re: (15 in 2:06-cv-00904-LAK-THK, 36 in 2:05-cv-08132-LAK-THK) Order on Motion to Dismiss, to the Judgments and Orders Clerk. Filed In Associated Cases: 2:05-cv-08132-LAK-THK, 2:06-cv-00904-LAK-THK(jco) (Entered: 03/04/2008)
03/05/2008	<u>37</u>	CLERK'S JUDGMENT That for the reasons stated in the Court's Order dated March 3, 2008, the motion for summary judgment dismissing the complaints in these actions is granted; accordingly, these cases are closed. (Signed by J. Michael McMahon, clerk on 3/5/08) (Attachments: # 1 notice of right to appeal) Filed In Associated Cases: 2:05-cv-08132-LAK-THK, 2:06-cv-00904-LAK-THK(ml) (Entered: 03/05/2008)
03/06/2008		Mailed notice of Right to Appeal to Pro Se Litigant(s): Ben Song, John E. Potter and to Attorney(s) of Record: Matthew Lane Schwartz. (ama) (Entered: 03/06/2008)
05/01/2008	<u>38</u>	NOTICE OF APPEAL from 37 Clerk's Judgment. Document filed by Ben Song. Copies mailed to attorney(s) of record: A.U.S.A. (tp) (Entered: 05/19/2008)
05/01/2008		Appeal Remark as to 38 Notice of Appeal filed by Ben Song. NO FEE. IFP GRANTED 9/20/08. (tp) (Entered: 05/19/2008)
05/19/2008		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: 38 Notice of Appeal. (tp) (Entered: 05/19/2008)
05/19/2008		Transmission of Notice of Appeal to the District Judge re: 38 Notice of Appeal. (tp) (Entered: 05/19/2008)

APPEAL, CASREF, CLOSED, MEMBER, PRO-SE

U.S. District Court
United States District Court for the Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:06-cv-00904-LAK-THK
Internal Use Only

Song v. Potter et al
Assigned to: Judge Lewis A. Kaplan
Referred to: Magistrate Judge Theodore H. Katz
Cause: 42:2000e Job Discrimination (Employment)

Date Filed: 02/06/2006
Date Terminated: 03/05/2008
Jury Demand: Plaintiff
Nature of Suit: 442 Civil Rights: Jobs
Jurisdiction: U.S. Government Defendant

Date Filed	#	Docket Text
02/06/2006	1	ENDORSEMENT on Declaration in Support of Request to Proceed In Forma Pauperis, I.F.P. REQUEST IS GRANTED. (Signed by Judge Lewis A. Kaplan on 02/06/06) (es,) (Entered: 02/17/2006)
02/06/2006	2	COMPLAINT against John E. Potter, United States Postal Service, Agency (New York Metro). Document filed by Ben Song.(es,) (Entered: 02/17/2006)
02/06/2006	3	MOTION to Appoint Counsel. Document filed by Ben Song. (jeh,) (Entered: 02/17/2006)
02/06/2006		Magistrate Judge Theodore H. Katz is so designated. (jeh,) (Entered: 02/17/2006)
02/24/2006	4	ORDER REFERRING CASE TO MAGISTRATE JUDGE. Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for General Pretrial (includes scheduling, discovery, non-dispositive pretrial motions, and settlement), Dispositive Motion (i.e., requiring a Report and Recommendation). Referred to Magistrate Judge Theodore H. Katz (Signed by Judge Lewis A. Kaplan on 2/22/06) (js,) Modified on 2/28/2006 (js,). (Entered: 02/27/2006)
05/31/2006		CONSOLIDATED MEMBER CASE: Case consolidated with 1:05-cv-8132. (lb,) (Entered: 06/01/2006)
05/31/2006		ORDER: granting Motion to Consolidate Cases 1:05-cv-8132 (as Lead Case) with 1:06-cv-904. (Original filed in 05-cv-8132 as document # 9). (Signed by Magistrate Judge Theodore H. Katz on 5/26/2006) (lb,) (Entered: 06/01/2006)
06/05/2006		ORDER: The Court grants plaintiff's motion for appointment of counsel. The Pro Se Office for the SDNY is directed to request pro bono counsel for plaintiff in accordance with the Pro Bono Panel's procedures. Plaintiff should be aware that there is no guarantee that an attorney will choose to represent him. (Original filed in 05-cv-8132 as document # 10) (Signed by Magistrate Judge Theodore H. Katz on 6/1/2006) Copies Mailed By Chambers. (lb,) (Entered: 06/05/2006)
06/05/2006		SCHEDULING ORDER: Discovery due by 11/30/2006. There shall be no further amendments of the pleadings or joinder of additional parties without good cause shown. If any party seeks to file a dispositive motion, the moving party should submit a brief letter to the Court discussing the basis for the proposed motion by 12/28/2006. All other rulings as set forth in this order. (Original filed in 05-cv-8132 as document # 11) (Signed by Magistrate Judge Theodore H. Katz on 6/1/2006) Copies Mailed By Chambers. (lb,) (Entered: 06/05/2006)
07/17/2006	5	ANSWER to Complaint. Document filed by John E. Potter.(mbe,) (Entered: 07/18/2006)
08/09/2006	6	MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE EXECUTED Summons and Complaint served. John E. Potter served on 5/16/2006, answer due 7/17/2006. Service was accepted by O. Hines, Clerk. Document filed by Ben Song. (kco,) (Entered: 08/10/2006)
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12/20/2006	7	ENDORSED LETTER addressed to Mag. Judge Theodore H. Katz from Matthew L. Schwartz dated 12/12/06 re: Gov't requests a conference to discuss this issue or, alternatively, and order compelling Mr. Song's appearance at a date to be determined. So Ordered. Plaintiff must appear for his deposition on a date agreed to by the parties, but no later than 1/18/07. Plaintiff may bring his own interpreter, or, if he fails to do so, the dfts has agreed to provide an interpreter. The Court will not provide an interpreter. Failure to comply with this Order will result in sanctions. (Signed by Judge Theodore H. Katz on 12/19/06) Filed In Associated Cases: 2:05-cv-08132-LAK-THK, 2:06-cv-00904-LAK-THK(pl,) (Entered: 12/21/2006)
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07/10/2007		ENDORSED LETTER addressed to Magistrate Judge Theodore H. Katz from Ben Song dated 7/4/07 re: a request that the Court find the filings of defendant to be late and unlawful. ENDORSEMENT: The amended schedule set by the Court remains in place. SO ORDERED. (Signed by Judge Theodore H. Katz on 7/9/07) (Original document filed in 05cv8132 as doc #22) Copies Mailed By Chambers.(kco) (Entered: 07/17/2007)
07/23/2007	8	MOTION for an order pursuant to Rule 56 of the F.R.C.P. to Dismiss cases 05cv8132 and 06cv904 in their entirety. w/ attached Statement of Undisputed Material Facts pursuant to Local civil Rule 56.1 Document filed by John E. Potter, John E. Potter. Filed In Associated Cases: 2:05-cv-08132-LAK-THK, 2:06-cv-00904-LAK-THK(pl) (Entered: 07/26/2007)
07/23/2007	9	MEMORANDUM OF LAW in Support re: (8 in 2:06-cv-00904-LAK-THK, 23 in 2:05-cv-08132-LAK-THK) MOTION to Dismiss. Document filed by John E. Potter, John E. Potter. Filed In Associated Cases: 2:05-cv-08132-LAK-THK, 2:06-cv-00904-LAK-THK(pl) (Entered: 07/26/2007)

07/23/2007	10	DECLARATION of Matthew L. Schwartz, Francis O'Neill, and Sondra Harris in Support re: (8 in 2:06-cv-00904-LAK-THK, 23 in 2:05-cv-08132-LAK-THK) MOTION to Dismiss. Document filed by John E. Potter, John E. Potter. Filed In Associated Cases: 2:05-cv-08132-LAK-THK, 2:06-cv-00904-LAK-THK(pl) (Entered: 07/26/2007)
07/23/2007	11	NOTICE of NOTICE TO PRO SE LITIGANT WHO OPPOSES MOTION FOR SUMMARY JUDGMENT re: (8 in 2:06-cv-00904-LAK-THK) MOTION to Dismiss. Document filed by John E. Potter, John E. Potter. Filed In Associated Cases: 2:05-cv-08132-LAK-THK, 2:06-cv-00904-LAK-THK(pl) (Entered: 07/26/2007)
08/22/2007		ORDER: It is hereby ordered that 1. Plaintiff's response to Defendant's Motion for Summary Judgment shall be filed by September 5, 2007. 2. Any reply by Defendant shall be filed by September 17, 2007. So Ordered. Original Document filed in case # 05-cv-8132 Doc. # 28. (Signed by Judge Theodore H. Katz on 8/21/07) (Signed by Judge Theodore H. Katz on 8/22/07) (js) (Entered: 08/27/2007)
09/17/2007		REPLY MEMORANDUM OF LAW in Further Support of 8 MOTION for Summary Judgment pursuant to FRCP 56. Document filed by John E. Potter, United States Postal Service, Agency (New York Metro). Original filed in 06cv904(LAK)(THK) document # 29. Received in night deposit box on 9/17/07 at 9:25 p.m. (db) (Entered: 09/19/2007)
09/27/2007		ENDORSED LETTER addressed to Magistrate Judge Theodore H. Katz from Matthew L. Schwartz dated 9/25/07 re: The Government requests that Song's "Supplemental Material" and any such future submissions be disregarded, and that the motion be deemed fully-submitted. ENDORSEMENT: In view of Defendant's substantive response to the Supplemental Material, the Court will consider the submission in addressing the pending motion. Plaintiff is not to make any further submissions. The motion is fully submitted and no additional materials will be considered. (Signed by Judge Theodore H. Katz on 9/27/07) Copies Mailed By Chambers. Filed In Associated Cases: 2:05-cv-08132-LAK-THK, 2:06-cv-00904-LAK-THK, Original filed under case #05-cv-08132, Document # 30.(tro) (Entered: 09/28/2007)
10/23/2007	12	ENDORSED LETTER addressed to Magistrate Judge Theodore H. Katz from Matthew Schwartz dated 10/22/07 re: Request that Mr. Song's latest submissions be disregarded. ENDORSEMENT: Plaintiff's 10/2/07 submission will not be considered. Plaintiff has already submitted two responses to defendant's motion, and he has been advised not to make any further submissions.. (Signed by Judge Theodore H. Katz on 10/23/07) Filed In Associated Cases: 2:05-cv-08132-LAK-THK, 2:06-cv-00904-LAK-THK copies sent by chambers.(ed) (Entered: 10/24/2007)
01/17/2008	13	MEMO ENDORSEMENT ON NOTICE OF MOTION: Motion DENIED. It was filed untimely, after discovery had been completed. Moreover it raises issues previously addressed by the Court, is overboard, and seeks information which has little or no relevance to plaintiff's claims (Signed by Magistrate Judge Theodore H. Katz on 1/17/08) Filed In Associated Cases: 2:05-cv-08132-LAK-THK, 2:06-cv-00904-LAK-THK(js) (Entered: 01/17/2008)
02/13/2008	14	REPORT AND RECOMMENDATIONS re: (8 in 2:06-cv-00904-LAK-THK) MOTION to Dismiss. For the reasons stated above, this Court recommends that the Title VII claims related to the June 2000 LOW and the September 2000 NOR and the September 2002 LOW, should be dismissed for failure to exhaust administrative remedies. Plaintiff's remaining claims should be dismissed because there are no genuine issues of material fact that would allow a reasonable fact finder to conclude that Plaintiff was subject to unlawful discrimination or retaliation. Defendant's Motion for Summary should therefore be granted, and Plaintiff's Amended complaint should be dismissed with prejudice. Objections to R&R due by 2/26/2008 (Signed by Magistrate Judge Theodore H. Katz on 2/13/08) Filed In Associated Cases: 2:05-cv-08132-LAK-THK, 2:06-cv-00904-LAK-THK Copies mailed by Chambers.(djc) (Entered: 02/13/2008)
02/26/2008	17	OBJECTION to 14 Report and Recommendations Document filed by Ben Song. (djc) (Entered: 03/07/2008)
03/04/2008	15	ORDER granting (8) Motion to Dismiss in case 2:06-cv-00904-LAK-THK. Accordingly, the motion for summary judgment dismissing the complaints in these actions is granted. The Clerk shall close the cases. So Ordered. (Signed by Judge Lewis A. Kaplan on 3/3/08) Filed In Associated Cases: 2:05-cv-08132-LAK-THK, 2:06-cv-00904-LAK-THK(jco) (Entered: 03/04/2008)
03/04/2008		Transmission to Judgments and Orders Clerk. Transmitted re: (15 in 2:06-cv-00904-LAK-THK, 36 in 2:05-cv-08132-LAK-THK) Order on Motion to Dismiss, to the Judgments and Orders Clerk. Filed In Associated Cases: 2:05-cv-08132-LAK-THK, 2:06-cv-00904-LAK-THK(jco) (Entered: 03/04/2008)
03/05/2008	16	CLERK'S JUDGMENT That for the reasons stated in the Court's Order dated March 3, 2008, the motion for summary judgment dismissing the complaints in these actions is granted; accordingly, these cases are closed. (Signed by J. Michael McMahon, clerk on 3/5/08) (Attachments: # 1 notice of right to appeal) Filed In Associated Cases: 2:05-cv-08132-LAK-THK, 2:06-cv-00904-LAK-THK(ml) (Entered: 03/05/2008)
03/06/2008		Mailed notice of Right to Appeal to Pro Se Litigant(s): Ben Song, John E. Potter, United States Postal Service, Agency (New York Metro) and to Attorney(s) of Record: Matthew Lane Schwartz. (ama) (Entered: 03/06/2008)
05/01/2008		NOTICE OF APPEAL from 16 Clerk's Judgment. Document filed by Ben Song. Copies mailed to attorney(s) of record: A.U.S.A. (ORIGINAL DOCUMENT ENTERED IN LEAD CIVIL CASE #05cv8132 DOC. #38) (tp) (Entered: 05/19/2008)
05/01/2008		Appeal Remark as to Notice of Appeal filed by Ben Song. NO FEE. IFP GRANTED 9/20/05. (tp) (Entered: 05/19/2008)
05/19/2008		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: Notice of Appeal. (tp) (Entered: 05/19/2008)
05/19/2008		Transmission of Notice of Appeal to the District Judge re: Notice of Appeal. (tp) (Entered: 05/19/2008)